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IN THE
COURT OF APPEALS OF INDIANA

CARLA MIDDLEBROOK,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0610-CR-859
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Evan Goodman, Judge
Cause No. 49F15-0512-FD-208430

April 4, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Carla Middlebrook appeals her convictions for Residential Entry,[1] a class D felony, and Possession of Paraphernalia,[2] a class A misdemeanor. Specifically, Middlebrook argues that (1) a police officer did not have reasonable suspicion to detain Middlebrook, and (2) the State produced insufficient evidence that Middlebrook committed residential entry. Finding no error, we affirm the judgment of the trial court.

FACTS

On December 3, 2005, Officer Lance Rector of the Indianapolis Police Department (IPD) was dispatched to a residence on the east side of the city with a report that there was a burglary in progress. Officer Rector arrived at the home within two minutes and proceeded to the rear, where he observed a man exiting the residence through an open window and two women standing three feet away watching the man. Officer Rector drew his weapon, shouted "police," and ordered the three individuals to lie on the ground. Tr. p. 9. The man fled on foot, and Middlebrook and the other woman "took about three steps like they were going to take off running and then [] stopped." Id. at 12. IPD Officer Laura Smith arrived as the two women were descending to the ground.

Officer Smith handcuffed Middlebrook and the other woman, and Officer Rector read the women their Miranda[3] rights. Middlebrook told Officer Smith that "she knew the people that lived [at the residence] and that she was allowed to be in that house." Id. at 26. The officers called Payton Mosley, the owner of the house, and he informed them that "no one

[1] Ind. Code § 35-43-2-1.5.

[2] Ind. Code § 35-48-4-8.3(b).

had permission" to be in the house. Id. at 49. Officer Smith placed Middlebrook under arrest, and a search incident to the arrest revealed a glass pipe[4] inside the front pocket of Middlebrook's coat. A search of the residence revealed that a rear window had been broken from its frame and that the home had been ransacked.

On December 5, 2005, the State charged Middlebrook with class D felony residential entry and class A misdemeanor possession of paraphernalia. A bench trial was held on July 18, 2006, and the trial court found Middlebrook guilty as charged. A sentencing hearing was held on August 22, 2006, and the trial court sentenced Middlebrook to five hundred and forty-five days imprisonment for the residential entry conviction and one year for the paraphernalia conviction. The trial court ordered the sentences to run concurrently and suspended the portions of the sentences that Middlebrook had not already served. Middlebrook now appeals.

DISCUSSION AND DECISION

I. Admission of Evidence at Trial

Middlebrook argues that Officer Rector did not have reasonable suspicion to detain her outside of Mosley's residence. Specifically, Middlebrook argues that her detention violated the Fourth Amendment to the United States Constitution; therefore, the trial court

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[3] Miranda v. Arizona, 384 U.S. 436 (1966).

[4] Officer Smith testified that a glass pipe is drug paraphernalia that is typically used to smoke crack cocaine. Tr. p. 28-29.

abused its discretion by admitting the glass pipe found incident to her arrest.[5]

Middlebrook challenges the admission of the evidence procured during Officer Rector's search following her conviction. Thus, the issue is appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial. Id. An abuse of discretion occurs when the trial court makes a decision that is clearly against the logic and effect of the facts and circumstances before the court. Washington v. State, 784 N.E.2d 584, 587 (Ind. Ct. App. 2003). We will not reweigh the evidence and will consider conflicting evidence most favorable to the trial court's ruling. Ackerman v. State, 774 N.E.2d 970, 974-75 (Ind. Ct. App. 2002). However, we must also consider uncontested evidence in a light most favorable to the defendant. Id.

The Fourth Amendment prohibits unreasonable searches and seizures by the government, and its safeguards extend to brief investigatory stops. Moultry v. State, 808 N.E.2d 168, 170 (Ind. Ct. App. 2004). A police officer may briefly detain a person for investigatory purposes without a warrant or probable cause if the stop is based upon specific and articulable facts together with rational inferences from those facts, the intrusion is reasonably warranted, and the officer has reasonable suspicion that criminal activity may be afoot. Cannon v. State, 839 N.E.2d 185, 191 (Ind. Ct. App. 2005) (citing Terry v. Ohio, 392 U.S. 1, 21-22 (1968)).

When determining whether the officer had reasonable suspicion to detain

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[5] Middlebrook does not challenge the existence of the probable cause leading to her arrest; instead, she challenges her original detention and argues that Officer Rector lacked the requisite level of reasonable suspicion.

Middlebrook, we examine the totality of the circumstances to conclude whether the officer had a "particularized and objective basis" for suspecting legal wrongdoing. Cannon, 839 N.E.2d at 191. The reasonable suspicion requirement is met where the facts known to the officer at the time of the stop, together with the reasonable inferences arising from such facts, would cause an ordinarily prudent person to believe criminal activity has occurred or is about to occur. Id. In construing these rules, it has been determined that reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than a preponderance of the evidence, but it still requires at least a minimal level of objective justification and more than an inchoate and unparticularized suspicion or "hunch" of criminal activity. Eshelman v. State, 859 N.E.2d 744, 748 (Ind. Ct. App. 2007), trans. denied.

As a general rule, an anonymous tip alone is not likely to constitute the reasonable suspicion necessary for a valid Terry stop. Lampkins v. State, 682 N.E.2d 1268, 1271 (Ind. 1997); Beverly v. State, 801 N.E.2d 1254, 1261 (Ind. Ct. App. 2004). If an anonymous tip is "suitably corroborated," however, it may bear "sufficient indicia of reliability" to provide the reasonable suspicion necessary to justify a Terry stop. Beverly, 801 N.E.2d at 1261. Reasonable suspicion "requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person." Castner v. State, 840 N.E.2d 362, 366 (Ind. Ct. App. 2006).

Middlebrook argues that the officers "had no way of knowing whether [she] was a passerby who observed someone coming out of a window; whether she was attempting to get the man in the house to exit the house and not steal from someone she knew; or whether she

was the one who called the police." Appellant's Br. p. 6. As support for her argument, Middlebrook emphasizes that the IPD received an anonymous tip regarding the burglary and that anonymous tips alone are insufficient to allow police to detain a person. While Middlebrook's description may be generally accurate, Officer Rector arrived at the scene and immediately observed a man exiting the residence through a window while Middlebrook calmly observed three feet away. Officer Rector's observations sufficiently corroborated the anonymous tip and gave the tip the requisite indicia of reliability, which alone may provide reasonable suspicion.

Furthermore, the facts known to Officer Rector at the time of the stop, together with the reasonable inferences arising from such facts, would cause an ordinarily prudent person to believe that criminal activity had occurred—the standard for reasonable suspicion. While Middlebrook emphasizes that Officer Rector did not directly observe her committing a crime, Officer Rector reasonably inferred that Middlebrook was involved in the criminal activity because she stood three feet from the man exiting the residence and watched him calmly. The totality of these circumstances gave Officer Rector reasonable suspicion sufficient to detain Middlebrook and investigate further. Therefore, Middlebrook's argument must fail, and we cannot conclude that the trial court erred by admitting the glass pipe as evidence at trial.

II. Sufficiency

Middlebrook argues that there was insufficient evidence to convict her of residential entry. Specifically, Middlebrook emphasizes and Officer Rector testified that he merely saw her standing outside the residence and that no evidence was presented that she actually entered the residence.

The standard of review for sufficiency claims is well settled. In addressing Middlebrook's challenge we neither reweigh the evidence nor reassess the credibility of witnesses. Sanders v. State, 704 N.E.2d 119, 123 (Ind. 1999). Instead, we consider the evidence most favorable to the verdict and draw all reasonable inferences supporting the ruling below. Id. We affirm the conviction if there is probative evidence from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. O'Connell v. State, 742 N.E.2d 943, 949 (Ind. 2001). A conviction may be sustained wholly on circumstantial evidence if such evidence supports a reasonable inference of guilt. Maul v. State, 731 N.E.2d 438, 439 (Ind. 2000).

To convict Middlebrook of class D felony residential entry, the State had to prove beyond a reasonable doubt that Middlebrook knowingly or intentionally broke and entered the dwelling of another person. I.C. § 35-43-2-1.5. At trial, the State presented evidence that a rear window had been torn out of its frame and that the home had been ransacked. Tr. p. 10, 48. Upon arriving on the scene, Officer Rector observed a man exiting the home through the window while Middlebrook waited three feet away. Id. at 11. Furthermore, after receiving the Miranda warnings, Middlebrook told the officers that she "knew the people that

lived [in the house] and that she was allowed to be in that house." Id. at 26 (emphasis added). While Middlebrook testified that she never actually entered the home, it is the factfinder's duty to assess the credibility of witnesses. Here, the State presented circumstantial evidence that Middlebrook entered Mosley's residence, and her argument on appeal is an invitation for us to reweigh the evidence and assess the credibility of witnesses—an invitation we decline.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and CRONE, J., concur.